

that with all the ability which characterized the most part, if not the whole of it, it was to a very great extent simply a re-argument of what we have heard before in the argument upon the bill of rights, which took up so much of the time of the convention. This whole question of the conduct of the administration, of its supposed usurpations, of slavery, of arrests, of personal liberty, was all gone over upon the discussion of those articles. And the question of allegiance, so far as it is involved in the discussion of this proposition now before the convention, was fully discussed and absolutely decided in the fourth article of the bill of rights. I have heard a great many remarks made in the course of this debate, with regard to the meaning of some of these propositions which I think were completely answered in the course of that debate. What is meant by allegiance to the United States? What is meant by the government of the United States?

Without undertaking to answer those arguments, because I think they have already been answered in this house, I mean merely to explain to the convention what is my understanding of the proposition embraced in this amendment.

So far as the first part of it is concerned, I suppose nobody has any objection. So far as regards all these provisions contained in the present constitution, I have heard no objection, except the theoretic objection of the gentleman from Prince George's (Mr. Belt,) which goes to the extent of abolishing the whole system of oaths. I suppose any member of this convention who has cheerfully and freely taken the obligations of the oath imposed upon members of this convention, will have no important objection to the former part of this amendment, which concludes with the words, "rebellion against the United States, or the lawful authorities thereof." I suppose therefore that the whole argument rests upon the remaining part of the oath.

What is that portion of the amendment? I will read it:

"But that I have been truly and loyally on the side of the United States against those in armed rebellion against the United States; and I do further swear or affirm that I will, to the best of my abilities, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved, or the government thereof to be destroyed under any circumstances, if in my power to prevent it, and that I will at all times discountenance and oppose all political combinations having for their object such dissolution or destruction."

That is the point that is practically before us. That is the part I understand to be objected to. It is objected to in the first place, although the objection really applies as much to what precedes it as to this, that it is *ex post*

*facto*. What is *ex post facto* within the meaning of the constitution of the United States, or any legal definition of that term? It means that you shall not punish a man for a crime that did not exist before the time when you pass the law by which you punish him. It never has been interpreted to mean a prohibition upon retroactive laws. Everybody knows that a law enacted with regard to any subject, operates upon contracts already made, unless these contracts are expressly excluded from its operation. If a law is passed applicable to a case pending in court, it applies to that case, unless that case is specially excluded from its provisions.

But what have we to do with *ex post facto* legislation? We are assembled here, the representatives of the people of the State, sent here to frame its organic law. We have the constitutional right, qualified only by the moral duty to exercise that constitutional right properly, to prescribe whatever qualifications for the exercise of the elective franchise we please, and to prescribe whatever qualifications for holding office, and whatever oath of office we please to prescribe. There is no doubt whatever that if this convention undertook to create a property qualification, which would absolutely disfranchise persons now admitted to suffrage in this State, whatever might be said of the hardship of such a provision, it would be absolutely legal and constitutional; because it is the universal and unrestricted right of the people to fix the elective franchise and the right of holding office as they please.

What is the oath of office? and upon what theory does it proceed? My friend from Prince George's (Mr. Belt) went largely this evening into the theory that the people were the source of power, and that the fitness of a person for holding office must be judged of by the people. Certainly; and the people in fixing the constitution say what in general terms they regard to be absolutely necessary for the fitness of all persons to hold office. That is just as much a declaration of the people in regard to what they conceive to be fitness for holding office, as generally applied, as when expressed directly at the ballot box in regard to a particular individual.

What are the general terms? First, that the man should take an obligation to perform the duties of the office he is called upon to exercise. Next, that the man should be of such a character, and possess such principles generally as make him a fit person to govern the community over which he is called to preside. What is the principle upon which, although somewhat modified from time to time, and still more modified by this convention, a man is required to declare his belief in the christian religion, by many State constitutions? It is because it is supposed that as the people over whom he is to be placed is a christian people, no person holding articles